



MASSACHUSETTS DEPARTMENT OF REVENUE
PERSONAL INCOME TAX
EMPLOYEE BUSINESS EXPENSES

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**DOR-D
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**DISCUSSION
AND
DIRECTIVE:**

Massachusetts permits employees to deduct certain business expenses related to Massachusetts employment and paid or incurred in the taxable year. Although the federal Tax Reform Act of 1986 and Massachusetts Stat. 1988, c. 106 together create a new statutory scheme for the deduction of these employee business expenses, whether an expense is a deductible business expense remains, with certain new limitations and expansions, essentially the same as under prior law.

In general, whether a particular item is deductible depends upon the relationship between G.L. c. 62, § 2(d)(1) and I.R.C. § 62, or between G.L. c. 62, § 2(d)(2) and I.R.C. § 162, as limited by I.R.C. § 67. As a result of these sections, reimbursed expenses of all employees are deductible; the deductibility of unreimbursed expenses is determined by (a) the nature of your employment; (b) the type of business expenses; and, in some cases, (c) whether the expenses (taken together with your other federal miscellaneous itemized expenses not deductible in Massachusetts) exceed 2% of federal adjusted gross income [the "2% floor"]. More specifically:

1. **Reimbursed Expenses.** Reimbursed business expenses paid or incurred by any employee during the taxable year are fully deductible, so long as the reimbursements are reported in Massachusetts income. I.R.C. § 62; G.L. c. 62, § 2(d)(1).
2. **Performing Artists.** In addition to their reimbursed expenses, performing artists qualified under I.R.C. § 62(b)(1) may deduct fully all unreimbursed federally deductible business expenses. I.R.C. § 62; G.L. c. 62, § 2(d)(1).
3. **Outside Salespersons.** Outside salespersons who itemize on their federal returns may deduct all federally deductible unreimbursed employee business expenses, including educational expenses. The deduction is limited by the 2% floor. If a federal joint return is filed, a Massachusetts joint return must also be filed. I.R.C. §§ 162, 67; G.L. c. 62, § 2(d)(2).

For purposes of this deduction, an outside salesperson is one who solicits business for the employer away from the employer's place of business. G.L. c. 62, § 2(d)(2).

4. **Other Employees.** All employees may deduct those unreimbursed business expenses incurred for travel, meals and lodgings while away from home or transportation expenses incurred performing their job. They must be able to deduct these expenses federally and must itemize; the deduction is subject to the 2% floor. I.R.C. §§ 162, 67; G.L. c. 62, § 2(d)(2).
5. **Handicapped Employees.** In addition to employee business expenses, handicapped employees may, at the federal level, deduct impairment-related work expenses which are necessary for them to be able to work. I.R.C. §§ 162, 67. Under G.L. c. 62, § 2(d)(2), however, the deduction for employees other than outside salespersons is limited to expenses incurred for business travel, meals and lodgings while away from home, and job-related transportation expenses. As a result, for Massachusetts tax purposes, handicapped employees may deduct only work expenses for travel, meals and lodgings or business transportation. If these expenses are also impairment-related business expenses, they are not subject to the 2% floor; otherwise, they are. If a federal joint return is filed, a Massachusetts joint return must also be filed. *Id.*

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CALCULATION OF DEDUCTION WITH 2% FLOOR:

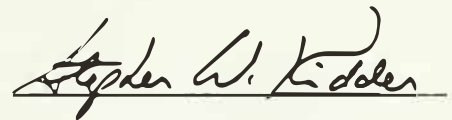
Where a taxpayer's miscellaneous itemized deductions must exceed 2% of AGI to be deductible for federal tax purposes (Nos. 3-5, above), the taxpayer may take only those business expense deductions available in Massachusetts, but up to the full amount in excess of 2% of federal AGI.

EXAMPLE 1: Fred, a regular employee, has unreimbursed business-related expenses of \$4,000, of which \$2,000 was incurred for expenses deductible in Massachusetts. Fred's AGI is \$40,000; at the federal level, Fred may therefore deduct all his unreimbursed expenses in excess of \$800 ($\$40,000 \times .02$), or \$3,200. In Massachusetts, Fred may take his allowable Massachusetts deductions up to the full amount in excess of 2% of federal AGI, i.e., \$3,200. Since Fred's allowable Massachusetts deduction is less than \$3,200, he may deduct the full \$2,000.

EXAMPLE 2: Same facts, except that Fred's expenses deductible in Massachusetts are \$3,600. Since Fred's allowable Massachusetts deduction is greater than \$3,200, Fred may deduct \$3,200 only since he is limited to the amount in excess of 2% of his federal AGI.

REFERENCE: I.R.C. §§ 62, 67, 162; G.L. c. 62, § 2(d), as amended by Stat. 1988, c. 106.

March 15, 1989



Stephen W. Kidder
Commissioner of Revenue

This Directive represents the official position of the Department of Revenue on the application of the law to the facts as stated. The Department and its personnel will follow this Directive, and taxpayers may rely upon it, unless it is revoked or modified pursuant to 830 CMR 62C.01(5)(e). In applying this Directive, however, the effect of subsequent legislation, regulations, court decisions, Directives, and TIRs must be considered, and Department personnel and taxpayers may rely upon this Directive only if the facts, circumstances and issues presented in other cases are substantially the same as those set forth in this Directive.